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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,514	11/06/2001	Michael Landau	59149-8002.US01	1534

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EXAMINER

VAN BRAMER, JOHN W

ART UNIT	PAPER NUMBER
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3622

MAIL DATE	DELIVERY MODE
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09/20/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.		Applicant(s)	
	10/005,514		LANDAU ET AL.	
	Examiner		Art Unit	
	John Van Bramer		3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on July 25, 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The amendment filed on July 25, 2007 cancelled no claims. Claim 16 has been amended and no new claims were added. Thus the currently pending claims remain claims 1-53.

Claim Rejections - 35 USC § 101

2. The amendment filed July 25, 2007 has overcome the 35 U.S.C. 101 rejection raised in the Office Action dated January 26, 2007. Thus, the examiner hereby withdraws the rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-53 are rejected under 35 U.S.C. 102(e) as being anticipated by Bezos et al. (US Patent Number: 6,029,141).

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Claims 1,9,16,24,32,34,41,42,49,50, and 51: Bezos discloses a method, system, program, and apparatus for providing performance based referral credit based on user transactions utilizing a network comprising:

- a. Allowing a referring entity to present a publication, the referring entity being assigned a unique identifier associated with the publication. (Col 1, line 50 through Col 2, line 18; and Col 7, lines 6-40)
- b. Receiving input from a user for subscribing to the publication utilizing a network. (Col 7, lines 52-60)
- c. Assigning a tracking code that traces to the user input and the unique identifier. (Col 8, lines 17-48)
- d. Forwarding the publication to the user based on the user input utilizing the network. (Col 7, lines 52-60)
- e. Allowing the user to select an entity associated with the publication. (Col 14, lines 1-37)
- f. Identifying the tracking code when the user conducts a transaction with the entity in order to provide a credit to the referring entity. (Col 1, line 50 through Col 2, line 18; and Col 14, line 38 through Col 15, line 16)

Claims 2, 10, 17, 25, 33, and 43: Bezos discloses a method, system, program, and apparatus as recited in claims 1, 9, 16, 24, 32, and 42 wherein the publication includes at least one of a newsletter and an e-mail announcement. (Col 1, line 50 through Col 2, line 18)

Claims 3, 11, 18, 26, 35, and 44: Bezos discloses a method, system, program, and apparatus as recited in claims 1, 9, 16, 24, 34, and 42 wherein the user input includes an email address. (Col 8, lines 17-48)

Claims 4, 12, 19, 27, 36, 45, and 52: Bezos discloses a method, system, program, and apparatus as recited in claims 1, 9, 16, 24, 32, and 42, wherein the entity associated with the publication is represented by at least one of a link, an advertisement, contact information, an input button, a script, and a drop down menu. (Col 7, lines 6-60)

Claims 5, 13, 20, 28, 37, and 46: Bezos discloses a method, system, program, and apparatus as recited in claims 1, wherein the network includes at least one of a wide area network and a local area network. (Col 11, lines 50-61)

Claims 6, 14, 21, 29, and 38: Bezos discloses a method, system, program, and apparatus as recited in claims 1, 9, 16, 24, 32, and 42, further comprising providing compensation for the credit of the referring entity. (Col 7, lines 6-60)

Claims 7, 15, 22, 30, 39, 47, and 53: Bezos discloses a method, system, program, and apparatus as recited in claims 6, 14, 21, 29, 32, 42 and 52, wherein the compensation includes monetary compensation, return referrals, discounted

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services, and no-charge services. (Col 7, lines 6-60)

Claims 8, 23, 31, 40, and 48: Bezos discloses a method, system, program, and apparatus as recited in claims 1, 9, 22, 24, 32, and 42, wherein the tracking code includes the unique identifier. (Col 14, line 38 through Col 15, line 16)

Response to Arguments

5. Applicant's arguments filed July 25, 2007 have been fully considered but they are not persuasive.
 - a. The applicant argues that Bezos does not teach allowing a referring entity to present a publication. However, this is precisely what Bezos is teaching. The affiliate in Bezos is the referring entity. The referring entity is presenting the publication to the customer (Col 1, line 50 through Col 2, line 18; and Col 7, lines 6-40).
 - b. The applicant argues that Bezos does not teach receiving input from a user for subscribing to the publication utilizing a network. However, Bezos specifically discloses in Col 7, lines 52-60 that the user provides input regarding the desire to make a purchase of a publication. Without such input from the user, the publication cannot be obtained and as such, the input from the user is used for the same intended use disclosed by the applicant in the claims (i.e. for subscribing to (purchasing) the publication utilizing a network).

- c. The applicant argues that Bezos does not disclose assigning a tracking code that traces to the user input and the unique identifier. However, Bezos discloses in Col 8, lines 17- 66 that a tracking code is used to identify the referring entities unique identifier and compensate said referring entity based upon user purchase input. The applicants attempts to differentiate between a tracking code and a cookie are not persuasive. A cookie is an example of a tracking code.
- d. The applicant argues that Bezos fails to teach forwarding the publication to the user based upon user input utilizing the network. However, Bezos discloses utilizing the network to collect purchasing information input from the user and then delivering the product to the user (Col 2, line 59 through Col 3, line 25).
- e. The applicant argues that Bezos does not disclose the merchant sending out the publication for the referring site (affiliate). However, this is specifically disclosed in Col 2, line 59 through Col 3, line 25.
- f. The applicant argues that Bezos does not teach allowing the user to select an entity associated with the publication. However, Bezos specifically discloses in Col 14, lines 1-37, the user selecting publications based upon the referring entity associated with the publication.
- g. The applicant argues that Bezos does not disclose identifying the tracking code when the user conducts a transaction with the entity in order to provide a credit to the referring entity. However, this is specifically what Bezos discloses in Col 1, line 50 through Col 2, line 18; and Col 14, line 38 through Col 15, line 16, as well as in Col 13, lines 9 through 28 where Bezos discloses keeping "track of the

sources (associates) of such referrals and how "this feature allows the merchant Web site to accurately track and credit each associate, on a per-product-sale basis".

- h. The applicant argues that there is no mention of an email address being included in the user input. However, Bezos discloses in Col 8, lines 17-48 that email can be used for carrying out the disclosed invention. The use of email is also disclosed in Col 2, lines 50-61. Therefore, the user input inherently includes inputting an email address when this embodiment is utilized.
- i. The applicant argues that Bezos does not disclose the entity associated with the publication that is represented by one of a link, an advertisement, contact information, an input button, a script, and a drop down menu. However, Bezos specifically discloses the use of links in Col 7, lines 6-60.
- j. The applicant argues that Bezos does not specifically suggest that the network includes at least one of a wide area network and a local area network. However, Bezos discloses in Col 11, lines 50-61 that web sites are used and discloses in the Col. 1, lines 6-8 that the invention relates to marketing and selling goods via the Internet or other interactive network. Since the internet is a wide area network, Bezos discloses the use of a wide area network.

Conclusion

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6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Van Bramer whose telephone number is (571) 272-8198. The examiner can normally be reached on 6am - 4pm Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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